

## ORAL ARGUMENT HELD DECEMBER 12, 2011

IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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AMERICAN PETROLEUM INSTITUTE,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 09-1038
	)	
ENVIRONMENTAL PROTECTION	)	
AGENCY,	)	
	)	
Respondent.	)	
	)	

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STATUS REPORT

Pursuant to the Court’s June 8, 2012, Order, Respondent United States Environmental Protection Agency (“EPA”) files this status report:

1. Petitioner API seeks judicial review of a final agency action which revises the definition of solid waste under the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6912 et seq., and conditionally excludes from that definition, and therefore from regulation as hazardous waste, certain hazardous secondary materials. *See Revisions to the Definition of Solid Waste*, 73 Fed. Reg. 64,668 (Oct. 30, 2008) (“DSW Rule”).

2. EPA issued a notice of proposed rulemaking regarding the DSW Rule. *See* 75 Fed. Reg. 44,094 (July 22, 2011). Pursuant to a settlement agreement with

Sierra Club, the EPA Administrator is required to sign and promptly submit to the Office of the Federal Register a notice taking final administrative action concerning the notice of proposed rulemaking no later than December 31, 2012. EPA was not able to take final action by that date, and is evaluating how to proceed.

3. The next status report is due March 7, 2014.

Respectfully submitted,

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/s/ Daniel R. Dertke  
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January 6, 2014

**CERTIFICATE OF SERVICE**

I certify that on this 6<sup>th</sup> day of January, 2014, the foregoing STATUS REPORT was served electronically via the Court's CM/ECF system upon counsel of record.

/s/ Daniel R. Dertke  
DANIEL R. DERTKE